IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

OP.No. 2429 of 2001(L)

PETITIONER:

P.A.SUDHEER,
S/O.LATE P.C. AYYAPPAN,
PALLIPARAMBIL HOUSE,
P.O.THOZHIYOOR, VIA. KUNNAMKULAM,
PIN – 680 520.

BY ADV. SRI.K.RAMAKUMAR
SRI.T.RAMPRASAD UNNI

RESPONDENTS:
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1. **THE DISTRICT EDUCATIONAL OFFICER,**
CHAVAKKAD.

2. **THE CORPORATE MANGER,**
MALABAR INDEPENDENT SYRIAN,
CHURCH EDUCATIONAL SOCIETY,
THOZHIYUR – 680 520.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
BY GOVERNMENT PLEADER SMT. LATHA THANKAPPAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.4029/2001 IN O.P.NO.2429/2001 L

DISMISSED

22/11/2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF REPRESENTATION DTD. 4/01/99 SUBMITTED BEFORE THE DISTRICT EDUCATIONAL OFFICER, CHAVAKKAD BY PETITIONER'S MOTHER.**

EXT.P2: **COPY OF COMMUNICATION FROM THE DIST.EDL. OFFICER, CHAVAKKAD TO THE CORPORATE MANAGER, MALABAR INDEPENDENT SYRIAN CHURCH EDL.SOCIETY THOZHIYUR DTD. 14/06/99.**

EXT.P3: **COPY OF COMMUNICATION FROM THE DIST.EDL.OFFICER, CHAVAKKAD TO SMT. M.K. MALU DTD. 15/01/2000.**

/TRUE COPY/

P.A.TO JUDGE

KSS

KURIAN JOSEPH, J.

O.P.NO.2429 OF 2001

Dated 22nd November, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayer :-

> "Issue a writ of mandamus commanding the first respondent to take such steps as are required to ensure that the petitioner is appointed in the school of the 2nd respondent under the dying-in-harness scheme in an appropriate post of Peon/full time Menial, Clerk etc. forthwith."

According to the second respondent, the petitioner has not submitted any valid application within the permitted time. It is submitted that in view of the recent bench decision of this court in **General Manager and another v. State of Kerala and another** (2007(3) ILR (Kerala) 361), the petitioner is not entitled for appointment. On the contrary, learned counsel for the petitioner submits that once the educational authority having issued a direction, the Manager is bound to obey the same, in view of the decision of this court in **Jayasree v. Director of Public Instruction** (2002(2) KLT 346). But the question is whether the direction thus issued by the first respondent is in

accordance with law and after considering the contentions of the Manager. It is fairly clear from Ext.P3 that the contentions of the Manager are not considered. It is further submitted that Ext.P3 direction issued by the first respondent is without taking into consideration the valid contentions taken by the petitioner. In view of the factual disputes involved in the case, it is only appropriate that the first respondent considers the matter afresh with notice to the petitioner, second respondent and any other affected party. I quash Ext.P3 with a direction to the first respondent to pass fresh orders in the matter with notice to the parties as above, within three months from the date of production of a copy of the judgment. The interim order passed by this court in C.M.P.No.4029/01 will continue till such time.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.NO.2429 OF 2001

J U D G M E N T

Dated 22nd November, 2007.